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Of counsel

June 6, 2019

Clarkstown Zoning Board of Appeals
10 Maple Avenue
New City, NY 10956
Att: Catherine Cirrone

Re: Appeal of Ateres Bais Yaakov Academy of Rockland

Dear Ms. Cirrone:

As you know, I represent the applicant, Ateres Bais Yaakov Academy of Rockland ("ABY") in the above-referenced appeal. At the time of application, ABY was a contract vendee of the subject property; the owner being Grace Baptist Church ("GBC").

As of May 16, the proposed transaction was cancelled by GBC. ABY attributes this cancellation to the actions of and on behalf of the Town of Clarkstown, including those actions that were in violation of New York State and federal law relating to religious and educational land uses. Attached is a memorandum of law concerning religious discrimination from Weil, Gotshal & Manges LLP, ABY's *pro bono* attorneys, with a specific focus upon how the Building Inspector's denial of its request for a building permit infringed upon ABY's religious liberty and was rife with invidious discrimination. ABY also believes that the Town's interference was the direct cause of ABY losing its financing resources.

On May 16, GBC filed a letter with the ZBA "revok[ing] any consent to land use applications" relating to the subject property. ABY hereby objects to GBC's withdrawal of consent and urges the ZBA to schedule a hearing in the coming weeks. Contrary to GBC's belief, the ZBA is still lawfully obligated to continue to hear ABY's appeal because declaratory relief on the misapplication of Local Law No. 5 of the Clarkstown Zoning Code and/or a grant of an area variance will necessarily bind those interested in purchasing the Grace Baptist Church in the future (whether that be ABY or otherwise) and would also affect other properties to which Local Law No. 5 has been or will be similarly misapplied. This is especially true because the Town's own actions have conveniently left itself as one of the few, if not the only, likely purchasers of the Property. Indeed, recent press reports have

confirmed that this is exactly what is happening. In addition, ABY's appeal and application for an area variance is not moot because the nature of the action is capable of repetition yet evades review. Public policy should not incentivize towns to engage in delay and xenophobic tactics, which ABY contends is the case here.

In light of the foregoing, the ZBA should – and is lawfully required to – consider ABY's appeal and application. ABY expressly reserves all rights and remedies it may have against the Town of Clarkstown, its officers, agents, boards, commissions and employees, including the right to seek redress under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc. This reservation of rights both survives and includes ABY's loss of a complete interest in the Property, which ABY maintains was due to the Town's discriminatory actions. *See e.g., Centro Familiar Cristiano Buenas Nuevas v. City of Yuma*, 651 F.3d 1163 (9th Cir. 2010); *Matter of Shellfish, Inc. v. New York State Dep't of Env'tl. Conservation*, 76 A.D.3d 975 (2d Dep't 2010); *Froehlich v. Town of Huntington*, 159 A.D.2d 606, 607, 552 N.Y.S.2d 660, 661 (2d Dep't 1990); *Hearst Corp. v. Clyne*, 50 N.Y.2d 707, 714–15, 409 N.E.2d 876, 878 (N.Y. 1980).

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ira M. Emanuel', with a stylized, flowing script.

Ira M. Emanuel

Cc: Client
Lisa Kahn, Esq.
Yehudah L. Buchweitz, Esq.
David Yolkut, Esq.
Robert G. Sugarman
Kaela Dahan, Esq.